

§ 843.403

5 CFR Ch. I (1–1–10 Edition)

§ 843.403 Proof of parentage.

(a) A judicial determination of parentage conclusively establishes the paternity of a child.

(b) Except as provided in paragraph (a) of this section, a child born to the wife of a married person is presumed to be the child of the wife's husband. This presumption may be rebutted only by clear and convincing evidence that the husband is not the father of the child.

(c) When paternity is not established under paragraph (a) or (b) of this section, paternity is determined by a preponderance of the credible evidence as defined in § 1201.56(c)(2) of this title.

§ 843.404 Proof of adoption.

(a) An adopted child is—

(1) A child adopted by the employee or retiree before the death of the employee or retiree; or

(2) A child who lived with the employee or retiree and for whom a petition for adoption was filed by the employee or retiree and who is adopted by the current spouse of the employee or retiree after the death of the employee or retiree.

(b) The only acceptable evidence to prove status as an adopted child under paragraph (a)(1) of this section is a copy of the judicial decree of adoption.

(c) The only acceptable evidence to prove status as an adopted child under paragraph (a)(2) of this section is copies of—

(1) The petition for adoption (clearly showing the date filed); and

(2) The judicial decree of adoption.

§ 843.405 Dependency.

To be eligible for survivor annuity benefits, a child must have been dependent on the employee or retiree at the time of the employee's or retiree's death.

§ 843.406 Proof of dependency.

(a) A child is considered to have been dependent on the deceased employee or retiree if he or she is—

(1) A legitimate child; or

(2) An adopted child; or

(3) A stepchild or recognized natural child who lived with the employee or retiree in a regular parent-child relationship at the time of the employee's or retiree's death; or

(4) A recognized natural child for whom a judicial determination of support was obtained; or

(5) A recognized natural child to whose support the employee or retiree made regular and substantial contributions.

(b) The following are examples of proofs of regular and substantial support. More than one of the following proofs may be required to show support of a natural child who did not live with the employee or retiree in a regular parent-child relationship and for whom a judicial determination of support was not obtained.

(1) Evidence of eligibility as a dependent child for benefits under other State or Federal programs;

(2) Proof of inclusion of the child as a dependent on the decedent's income tax returns for the years immediately before the employee's or retiree's death;

(3) Cancelled checks, money orders, or receipts for periodic payments received from the employee or retiree for or on behalf of the child;

(4) Evidence of goods or services that show regular contributions of considerable value;

(5) Proof of coverage of the child as a family member under the employee's or retiree's Federal Employees Health Benefits enrollment; and

(6) Other proof of a similar nature that OPM may find to be sufficient to demonstrate support or parentage.

(c) Survivor benefits may be denied—

(1) If evidence shows that the deceased employee or retiree did not recognize the claimant as his or her own despite a willingness to support the child; or

(2) If evidence casts doubt upon the parentage of the claimant, despite the deceased employee's or retiree's recognition and support of the child.

§ 843.407 Disabilities.

A child is eligible for continued annuity because the child is incapable of self-support if the Social Security Administration finds that the child is eligible for continued social security child's benefits because the child is incapable of self-support.